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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/409,478	09/30/1999	ROBERT D. TYLER	WICP.68041	5420

7590 06/03/2002
SHOOK HARDY & BACON LLP
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KANSAS CITY, MO 641052118

EXAMINER

LEE, EDMUND H

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 06/03/2002

4

Please find below and/or attached an Office communication concerning this application or proceeding.

101-4

Office Action Summary

Application No.

09/409,478

Applicant(s)

TYLER

Examiner

EDMUND H LEE

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reuben (USPN 5171619) in view of Schriener et al (USPN 2915427) as set forth in the previous Office action mailed 3/1/02.

3. Claims 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over ~~Reuben (USPN 5171619) in view of Schriener et al (USPN 2915427) as set forth in the~~ previous Office action mailed 3/1/02.

4. Claims 13-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reuben (USPN 5171619) in view of Schriener et al (USPN 2915427) as set forth in the previous Office action mailed 3/1/02.

5. Applicant's arguments filed 2/19/02 have been fully considered but they are not persuasive. Applicant argues that Reuben and Schriener et al are not combinable because Schriener et al teach way from using the mat of Reuben. Applicant alleges that Schriener et al require a mat of specific material, i.e., loop or cut pile fabric woven or knit to a sized backing having sufficient stretchability in all directions. In fact, Schriener et al teach such material *may* be used thus Applicant's non-combinability argument is not supported. Applicant also argues that the "one of ordinary skill would be discouraged from using a mat constructed in accordance with the Reuben reference to achieve the

desired results set forth in *Schriner*.” Specifically, Applicant argues that the foam

backing of Reuben is the discouraging element because *Schriner et al* requires a rubber backed contoured carpet without seams slits or wrinkles and undue stresses and splitting in the cheap reclaim rubber back. *Schriner et al* expressly teach “a wide variety of rubber, vinyl and *other plastics* may be employed as the backing layer” (col 3, lns 33-35), thus Applicant’s non-combinability argument is not supported.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Examiner Edmund Lee whose telephone number is (703) 305-4019. The examiner can normally be reached on Monday-Wednesday and Friday from 8:00 AM to 4:00 PM. The fax number for Examiner Edmund Lee is (703) 872-9615

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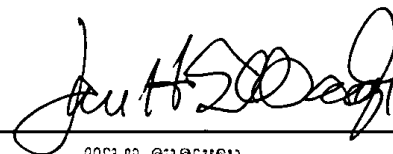
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jan H. Silbaugh, can be reached on (703) 308-3829.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

EHL

May 30, 2002


JAN H. SILBAUGH
SUPERVISOR, PATENT EXAMINER
Art Unit 1732

05/30/02